

**REMARKS**

Claims 1-3 and 5 are pending after this amendment cancels claim 4. Claims 1, 2, and 3 are amended. No new matter is added by the amendments, which find support throughout the specification and figures. In particular, the amendments to the claims are supported by figure 3 and page 8, lines 13-26, of the specification.

REJECTION UNDER 35 U.S.C. §103(a)

Claims 1-3 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,239,465 to Nakagawa (hereinafter Nakagawa) (claim 4 having been canceled). Applicants respectfully traverse.

Claim 1 relates to a semiconductor integrated circuit that includes, *inter alia*, ***a silicon epitaxial layer that touches the surface of a silicon substrate.***

In regard to independent claim 1, the Examiner alleges that the epitaxial layer 25 in figure 5 of Nakagawa is the equivalent of the silicon layer formed on the surface of the substrate, and that silicon substrate 21 in figure 5 of Nakagawa is the equivalent of the silicon substrate claimed in independent claim 1, except for the differing materials of glass and substrate.

Applicants respectfully disagree with the Examiner's attempt to equate the silicon layer formed on the surface of the substrate, as claimed in claim 1, with epitaxial layer 25 as illustrated by figure 5 of Nakagawa. Epitaxial layer 25 is not ***formed on the surface*** of the silicon substrate 21. Instead, epitaxial layer 25 is apparently formed on the surface of n + diffusion layer 24, which intervenes between epitaxial layer 25 and silicon substrate 21, (see, e.g., column 4, lines 50-52; and Figs. 4B, 5 of Nakagawa).

However, in the interest of expediting prosecution, claim 1 has been amended to clarify the subject matter recited therein. Amended claim 1 recites that the silicon epitaxial layer *touches the surface* of the silicon substrate. It is respectfully submitted that diffusion layer 24 of Nakagawa intervenes between epitaxial layer 25 and silicon substrate 21, and therefore diffusion layer 24 does not touch the surface of the silicon substrate 21.

Accordingly, Applicants respectfully submit that independent claim 1 is not made obvious by Nakagawa, and that independent claim 1 is therefore in condition for allowance. As dependent claims 2-3 each depend from independent claim 1, Applicants further submit that dependent claims 2-3 are also allowable for at least this reason.

Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over Nakagawa in view of Applicants' allegedly admitted prior art (AAAPA). Applicants respectfully traverse.

The addition of AAAPA fails to cure the critical deficiency discussed above in regard to Nakagawa as applied against claim 1. Therefore, since claim 5 depends from claim 1, claim 5 is allowable for at least the same reasons as claim 1 is allowable.

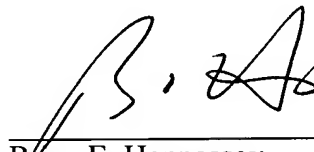
CLOSING

An earnest effort has been made to be fully responsive to the Examiner's objections. In view of the above amendments and remarks, it is believed that independent claim 1 is in condition for allowance, as well as those claims dependent therefrom. Passage of this case to allowance is earnestly solicited.

However, if for any reason the Examiner should consider this application not to be in condition for allowance, he is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged on Deposit Account 50-1290.

Respectfully submitted,



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